The Rerald and Neurs

JURY LAWS NULL AND YOLL

THE SUPREME COURT RENDERS A UNANIMOUS OPINION ON THE SUB-JECT.

Legislature Given an Object Lesson-The Constitution Must be Given Due Regard-Text of the Opinion.

[The State, 14th.]

The State supreme court has sustained Circuit Judge Gary's opinion that the jury laws of the State are unconstitutional, null and void, in that they are special and not general laws as required by the constitution, and the legislature is thus given an object lesson which should prevent the introduction of the usual round of bills that are clearly in violation of the constitutional provision.

The court renders a unanimous opinion, the paper being written by Justice Eugene B. Gary. The case is that of the State vs. A. J. Queen. et al., from Cherokee county.

The opinion in the other case on the same subject, that of the State vs. Franklin, affirms the judgement of the court below-Judge Ernest Gary's decision-and merely states that all points are covered in the opinion | in the McQueen case.

The full text of the opinion is

The appellants were tried and convicted of riot and assault and battery with intent to kill at the June (1901) term of court for Cherokee county.

"Before the jury was selected, the attorney for the appellants, made a motion to quash the array of on two grounds, (1) because "there was no jary law warranting the drawing of a jury for Cherokee county, and (2) because the jury law, if any, was repugnant to that provision of the constitution which prohibits special leg-

His honor, the circuit judge, overruled the motion whereupon the de fendants appealed upon the following exception:

"Because his honor erred in hold ing that the jury law of 1900, 13 clude listing and drawing of jurors. Statutes 315 entitled: 'An act to amend sections 2336 and 2337 of the general statutes relating to the can be considered as a special provisdrawing and term of service of jurors, in the circuit courts of this State and to validate the jury lists already prepared,' is not repugnant to, or in stitute for the law then by force on violation of subdivisions 8, 11 and 12 this subject, and deals with the enof section 34, article 3, constitution tire question of listing and drawing 1895, in as much as said jury law contains special and local provisions allowing the counties of Greenwood, Abbeville, Edgefield, Orangeburg and Lexington and Aiken to summon and empanel jurors in 'hose counties, and the county of Charleston has a sepa rate and distinct act at page 320, 1900. All of which violates the afore said constitutional provision."

Section 1 of the act first mentioned in the exception contains the following provisions:

"That section 2336 of the general statutes of 1882 now known as sec tion 2375 of the revised statutes, be amended so as to read as follows: Section 2375. The clerks of the court in each county in this State shall, on or before the 5th day of January of each year, prepare a state ment and deliver the same to the county board of commissioners of the number of jurors that will be required to be in attendance for each term of the court, to be held in the county during the ensuing year, and the county board of commissioners shall in each year during the month of January prepare a list of such legally qualified voters of their respective counties, not absolutely exempt, as they may think well qualified to serve as jurors, being persons of good moral character, of sound judgment, and free from all legal exceptions, to be selected from the county at large, without regard to whether such persons reside in seven miles of the court house or not; except in the counties of Spartanburg and Orange burg, the list shall be prepared in the month of December, and the list so prepared by each county board of hereinbefore mentioned was consticommissioners shall contain twice material. These views are not inthe number as reported by the clerk of the court: Provided, that in lina Grocery Co. vs. Burnett, 61 S. Aiken county the jury shall be listed | C. 205, as that case did not arise unand drawn as provided by the county | der either of the first ten subdivisions government law: Provided, that in of article III, section 34; by referthe counties of Abbeville, Edgefield, ence to which it will be seen that the new school district in the county of main object was to secure uniform-Lexington and Greenwood the said jury list shall be prepared in the following manner, the list in Abbeville to those subjects which substantially militates against uniformity must to be one thousand names, to

wit:" * * * -Art. II1, section 34 of the constitution provides:

"The general assembly of this State shall not enact local or special laws for a new trial. USE OF PASSES IS STILL PROHIBITED.

concerning any of the following pur-

poses, to wit: 1. To change the

name of persons or places 2 To

lay out, open, alter or work roads or

towns or villages, or change, amend

incorporate educational, religious,

charitable, social, manufacturing or

banking institutions not under con-

trol of the State, or amend or extend

the charters thereof. 5. To incor-

porate school districts. 6 To au-

protection of game. 8. To sum-

mon and empanel grand or petit ju-

rors. 9. To provide for the age at

which citizens shall be subject to road

or other public duty. 10. To fix

the amount or manner of compensa-

tion to be paid to any county officer,

except that the laws may be so made

as to grade the compensation in pro-

portion to the population and neces-

sary service required. 11. In all

other cases, where a general law can

be made applicable, no special law

shall be enacted. 12. The general

assembly shall forthwith enact gen-

eral laws concerning said subjects for

said purposes, which shall be uni-

form in their operations: Provided,

that nothing contained in this section

shall prohibit the general assembly

from enacting special provisions in

In determining the constitutional-

ity of the foregoing Act it will be

necessary to construe the words "to

It is contended by the respondent

that they do not include the listing

In reaching a conclusion upon this

question, we must look to the evil

which the constitution wished to up-

The jury laws throughout the State

The object of the constitution was

to make the jury law uniform through-

out the entire State, and this can only

be accomplished by interpreting the

words "summon and empanel" to in-

Having reached this conclusion we

will next consider whether the act

While the act purports to be only

an amendment it is, in effect, a sub-

jurors. It must therefore be con-

strued as an independent act, and can

not be regarded as a special provision

The next question that will be con-

sidered is whether it can be construed

In Dean vs. Spartanburg, 59 S. C.

110, the ccurt says: "In order that a

law may be general it must be of

force in every county in the State,

and while it may contain special pro-

visions making its effect different in

certain counties those counties can

not be exempt from its entire opera-

The provision of the act that "in

Aiken county the jury shall be listed

and drawn as provided by the county

government law" shows that it was

not intended to be of force in that

The provision that in the counties

of Appeville, Edgefield, Lexington

and Greenwood the jury list should

be prepared in the manner therein

set forth shows that the operation of

the act was not unif rm throughout

the State. But construing the act

as an amendment it cannot be de-

clared to be constitutional, for the

reason that it substantially changes

the general law as to juries, and pre-

vents uniformity in all the counties

of the State upon that subject. Even

if it should be contended that this is

a special provision in a general law,

it could not be construed to be con

stitutional, as it prevents in a sub-

stantial manner uniformity in the

the county of Charleston has a sepa-

rate and distinct act at page 320,

1900, which violates the aforesaid

Even contending this to be the

fact, it could not have any effect in

determining whether the first act

tutional, and its consideration is im-

consistent with the ruling in Caro-

ity as to the subjects therein men-

tioned, and any legislation relating

necessarily be declared unconstitu

It is the judgment of this court

that the judgment of the circuit court

be reversed, and the case remanded

he appellants also contend that

ury law throughout the State.

constitutional provision."-

to be a valid general law.

ion in a general law.

in a general law.

were various and were productive of

great confusion and uncertainty.

summon and empanel jurors."

and drawing of jurors.

general laws."

highways. 3 To incorporate cities, GOVERNOR VETORS THE ACT AND HOUSE SUSTAINS HIM.

or extend the charter thereof. 4 To G.vernor Fully Sets Forth His Reasons for the R. j ction of the Act.

(The State, 15th.)

The governor's message vetoing the act repealing the anti free pass act presented yesterday reads as follows: To the Speaker and Members of the thorize the adoption or legitimation House of Representatives: of children. 7. To provide for the

I beg to return to you without my approval act No. 129 to "Repeal an act entitled 'an act to prevent the use of a free pass, express or telegraph frank on any railroad by any United States Senator ro member of congress fromt his State, or by any member of the general assembly of thia State, or byany State or county official, or by any judge of a court of record in this State.' Approved December 22, A. D. 1891."

This act was passed at your last session, but was not ratified and turned over to us until the last day of the session and, therefore, could receive no consideration until after your adjournment.

The act which the one under consideration purports to repeal was passed in response to a popular de mand to remove the legislator and the official, as far as possible, from corporate power and influence. It was not entirely a factional measure, though enacted during the time when factional feeling ran high. It had the support of members of all factions at that time and was enacted for the public weal. I do not know of any demand or any good reason why it should be repealed, and have therefore withheld my approval from the act repealing it. The system of distributing free passes by railroads among the members of the legislature and other officials before this act was pased prohibiting it was pernicious, and while I would not for a moment be understood as saying or intimating that any legislator or other official, State or county, could be unduly influenced by receiving a free pass, yet it should be remembered that we are all human and must feel kindly to that man or corporation, the recipient of whose favors we are. These corporations are already very powerful and wield great influence on legislation. Why should a frank or a free pass be given to a man as State

official or legislator when it would not be thought of so long as he remained a private citizen. Legislation is frequently had affecting these corporations and laws already made affecting them have to be executed. It is best for the public service that the official and the legislator be entirely free to act with entire impartiality in making and executing the laws. He should be able at all times to hold the scales of justice with an even hand, remembering always the rights of the corporations as well as the rights of the people. Believing this can be better done by not accepting favors from the corporations, and therefore not being under obligations to them, however small the obliga-

signature. Respectfully, M. B. McSweeney,

Governor. The motion of Mr. Spears of Darington to pass the act over the veto was voted upon by the house at once. It required 83 votes to do this. When the vote was counted it was found that the friends of the measure had lost, getting the required figures, but not in the proper order-38. The vote on the motion was as follows:

tion, I beg to return to you the re-

pealing act without my approval and

Ayes-38; Nays-64. The Newberry delegation voted as follows: Ayes-Dominick; Nays-Banks and

The following special message was also sent to the house on the other "held up" act. Tuere were 102 votes against passing the act over the veto

and none for it: January 11, 1902. To the Speaker and Members of the House of Representatives:

I beg to return without my signature act No. 103, passed by you at the last session, and which originated FANCY LAMPS, CHINA, in the house of representatives. "To provide for the establi-hment of a Anderson." Believing that it was in violation of the constitution of the State, I submitted it to the attorney general's office and requested an opinion on that point. I ne reply of the attorney general's office is as follows and clearly states why it should not receive the approval of the Governor.

February 21, 1901. His excellency, M B McSwaeney:

Dear Sir: You submit for the consideration of this office, set No. 103 passed by the recent general assembly purporting "To provide for the establishment of a new school district in the county of Anderson," and request to be advised as to the constitution ality of such an act.

From an inspection of the body of the act it is obvious that the above title correctly sets forth the purpose of the act. That the act is repugnant to the spirit of the constitution and in direct contravention of the letter of that instrument there can be no question. The strongest evidence is to quote article 3, section 34, of the constitution of 1895: "The general assembly of this State shall not enact local or special laws concerning any of the following subjects or for any of the following purposes to wit:

V. To incorporate school districts.*

While there can be no mistake as to the meaning of the above phraseology, we have cumulative evidence as to the correctness of this conclu sion in article 11, section 5, of the constitution which provides for a division of counties into suitable districts and the manner of forming them. Legislative action for the formation of a particular school district is not only not contemplated by this section, but positively repugnant

Very respectfully,

U. X. Gunter, Jr.,

Assistant Attorney General. I trust it will not be improper again to call your attention to the importance of being guarded and careful about placing upon the statute books acts which are directly in the face of the constitution. The constitution forbids the passage of laws of attractive rates: a local or special nature and the supreme court has frequently held them unconstitutional.

Respectfully, M. B. McSweeney,

Governor.

The Bank of Butler, Ga., was robbed a few nights ago of \$2,000. The burglars escaped.

A few days ago a valuable necklace was stolen from the Woman's building, Charleston Exposition. The thief has been arrested in New York and the necklace recovered.



Wood's Seeds BEST FOR THE SOUTH.

Every Gardener, Farmer and Trucker should have Wood's 1902 Descriptive Catalogue. It not only gives reliable, practical, up-to-date information about all Seeds, but also the best crops to grow, most successful ways of growing different crops, and much other information of special interest to every one who plants seeds. It tells all about Vegetable and Flower Seeds.

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It's this way:

You can burn yourself with Fire, with Powder, etc., or you can scald yourself with Steam or Hot Water, but there is only one proper way to cure a burn or scald and that is by using

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It gives immediate relief. Get a piece of soft old linen cloth, saturate it with this liniment and bind loosely upon the wound. You can have no adequate idea what an excellent remedy this is for a burn until you have tried it.

A FOWL TIP. If you have a bird afflicted with Roup or any other poultry disease use Mexican Mustang Liniment. It is called a STANDARD remedy by poultry breeders.

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On account of the South Carolina Inter-Sta e and West Indian Exposition to be held in Charleston, S. C., beginning December 1st, 1901, the Southern Railway will sell excursion tickets to Charleston and return at the following

FROM NEWBERRY, S. C., FOR Tickets on sale daily, limited to return June 3, 1901. \$5.70 Tickets on sale daily, limited to return ten days. 19 On Tickets on sale Tuesdays \$5.90 and Thursdays, limited to return seven days.

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1		3 b	1
	Condensed Schedule in Effect		
:	June 30th, 1901.		
	STATIONS.	No. 15. No. 11.	
-	Summerville	11 00 p m; 7 00 a m 12 00 n't 7 41 a m 2 00 a m 9 00 a m	1
	* Branchville * Orangeburg * Kingville	2 45 a m 9 28 a m 4 05 a m 10 24 a m	1
3	Lr. Savannah	12 30 a m 12 30 a m 4 13 a m 4 13 a m 4 28 a m 4 28 a m	1
1	Blackville	6 00 a m 11 80 a m 7 14 a m 12 20 n'n	
1	Prosperity Newberry Ninety-Six	7 30 a m 12 35 p m 8 38 a m 1 30 p m	1
3	Ar. Hodges	8 50 a m 2 05 p m 9 15 a m 2 25 p m 8 35 a m 1 45 p m	1
1	Lv. Abbeville,	8 35 a m 1 45 p m	•
٠ ا	Lv. Anderson	9 40 a m 2 45 p m	•
1	Ar. Greenville	11 20 a m 4 25 p m	i
٠,	Ar. Atlanta. (Cen. Time)	8 55 pm 9 00 pm	į
.	STATIONS.	Daily Daily	
	,	110 10:	
	Fledmont Williamston	6 50 p m 10 05 a m	ì
	Ar. Anderson	8 15 pm 11 15 a m	i
	Ar. Belton	7 85 p m 10 45 a m 8 05 p m 11 10 a m	_
	Ar. Abbeville	9 05 p m 12 01 n'n	
8	Lv. Hodges	8 20 p m 11 25 a m 8 50 p m 11 50 a m	1
	" Ninety-Six" " Newberry" " Prosperity	9 10 p m 12 05 p m 10 15 p m 1 10 p m 10 83 p m 1 24 p m	1
	Columbia	11 50 p m 2 40 p m	•
7	# Bernwell	2 52 a m 2 53 a m 3 07 a m 8 07 a m 4 50 a m 4 50 a m	1
7	Lv. Kingville Orangeburg	2 83 a m 8 46 p m 8 45 a m 4 43 p m	1
	Branchville	4 25 a m 5 25 p m 5 57 a m 6 42 p m	1
)	Daily Daily Smart	Daily Daily	7
	Daily Daily STATI No 16. No. 13. 11 00 p 7 00 a Lv. Charle 13 00 a 7 41 a "Summe	No. 14. No. 16.	
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.Branchville. 4 42 p 8 45 a 8 46 p 2 32 a Orangeburg " Savannah Ar Barnwell 9 49 a 2 87 p "....Pacolet " 11 05 a 6 42 p 10 29 a 8 10 p Ar Spartanburg Lv 10 85 a 6 15 p 10 36 a 8 40 p Lv Spartanburg Ar 10 26 a 6 00 p 20 p 7 15 p ArAsheville ...Lv 7 05 a 8 00 p

"P" p. m. "A" s. m. "N" night. DOUBLE DAILY SERVICE BETWEEN CHARLESTON AND GREENVILLE.

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Trains leave Greenville, A. and C. division, sorthbound, 5.55 a. m., 2.34 p. m. and 5.18 p. m., (Vestibule Limited), and 5.55 p. m.; southbound, 1.25 a. m., 4.30 p. m., 12.40 p. m. (Vestibule Limited), and 11.30 a. m.

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Ar Spartanburg. Ly Spartanburg

RAILROAD BLUE RIDGE H. C. BEATTIE, Receiver.

petween Anderson and Walhalla Anderson. Ar 11 00 am ...Lv 3 56 pm ...Lv 4 05 pm Ar 10 40 am. ..Autun.. .. Pendleton......Lv 4 14 pn Ar 10 22 am. Ar 10 13 am....Cherry's Crossing..... Lv4 23 pm Ar 10 07 am.....Adams' Crossin..... Lv 4 29 pmp Ar 9 49 am }Seneca......... } Lv 4 47pm Ar 9 25 am West Union Lv 5 Ii pr Ar 9 20 am Walhalla Lv 5 I7 pr A. M. Lv. P. M. A. J. R. ANDERSON, Superintendent Connections at Seneca with So. R. R. No. 11 at Ancerson with So. Railway Nos. 11 and P. M. A1

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Central Time. Daily. Daily. 66 34 .11 30 pm 1 55 pm Northbound 1 09 am 3 40 pm 1 50 am 4 27 pm Eastern Tin.e. Columbia 4 10 am 7 05 pm Can den......... 5 07 am 8 00 pm Ar Handet 705 am
I v Calhoun Valls 100 am
Abbeville 13 am
Greenwood 155 am 1 00 am 4 21 pm 1 33 am 4 51 pm 1 55 am 5 19 pm 3 45 am 6 08 pm 3 53 am 6 53 pm 40 am 72) pm Carlisle Chester..... 40 am tawha Jet.... 43 am Ar H .n. let Ar Ka eigh. Petaisburg 2 26 pm R-chr ond...... 3 05 pm 6 35 am Washington.... 6 35 pm 10 10 am Baltiu:ere ... 11 25 pm 11 25 am Philadelphia ... 2 56 am 1 36 pm New York 6 30 am 4 15 pm

P'tsu outh-Norf'k 525 pm 715 am Eastern Time. Daily. Daily. Southbound. ... 7 Il am Il 06 pm 8 34 am I2 53 am Lv Cheraw .. Central Time.

8 40 am 1 05 am Ar Sayannah......12 05 pm Jacksonvilla... 3 t0 pm 9 05 am 5 (0 am 5 40 pm Eastern Time.

.... 9 07 am 12 57 am Cint'n to 9 45 am 12 35 am Atlanta Lv Catawba..... Chester Carlisle 2 00 am II 06 am 2 57 am

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In Effect Sunday, October 6, 1931. (Eastern Standard Time. STATIONS.

A-M. 7 45a Lv Atlanta (S.A.L) Ar. 10 11a Athens 11 18a Elberton 12 23p Abbevil:6 Abbevil:e Greenwood Ly, 2 00 10 00a Lv Glenn Springs Ar 4 00 Sparianburg Greenville 11 45a 12 0Ip Harns Springs) 12 52p Waterloo 2 06 1 165. ar Laurens(Din'r) Lv 1 38

Daily Frt Ex Sun. A.M. 616 6.5 2 02 2 08 2 23 2 32 2 39 2 46 2 51 v Laurens Parks Clinton... Goldville Kinard... ...Gary... .Jalapa... Prosperity Slighs.... Mountain 419irmo.... 11 44 415 ...Leaphart... 11 83 4 CarCoumbiaLv 11 20

4 15 LvColum bia (A C L.)Ar 11 (0 5 25 Sumter 9 48 8 30 Ar Charleston For Rates, Time Tables, or further informa President. F. LIVINGSTON. Wilmington N C Sol. Agt.

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Nos. 52 and 53 Solid trains between Charle

Arrive Greenwood... 40 pm Glenn Springs..... 4 45 p m 9 00 a m Hendersonville.... 6 03 Leave; Asheville....... Spartanburg Greenville 5 40 p m 11 35 a m 6 20 pm 6 32 pm 7 35 pm 8 35 pm Allendale. .0 25 aza Fairfax... Yemassee. Beaufort.. Port Royal 8 45 pm

10 30 am Ar. Savannah.. Savannah.. Port Roya!. 100 pm 5 40 am 11 40 pm 11 55 pm 5 50 am 6 40 am Beautort Yemassee . 7 44 am 7 54 am Fairfax.. Allendale.

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